

For example, the Examiner argues "the combination of claims 1 and 3 of the present invention is equivalent to claim 1 of copending Application No. 09/793,035." Besides the fact that the Examiner is improperly combining claims 1 and 3 of the present application and comparing them to claim 1 of the copending application, the Examiner does not state the differences between claim 1/3 of the present application and claim 1 of the copending application. The Examiner also fails to provide a reason why a person of ordinary skill in the art would conclude that the invention defined in claims 1/3 of the present application is an obvious variation of the invention defined in claim 1 of the copending Application.

The analysis employed in an obviousness-type double patenting determination should parallel the guidelines for a 35 USC 103(a) rejection, i.e., the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). See MPEP 804.

In view of the foregoing, withdrawal of this rejection is respectfully urged.

3. Claims 1, 2, 4-14, 16-26 and 28-36 remain rejected under 35 USC 102(e) as being anticipated by U.S. Patent 6,510,177 to De Bonet *et al.* (De Bonet). This rejection is respectfully traversed because De Bonet does not in any way describe the claimed invention.

Claim 1 is representative of the claims and recites a method of coding video comprising the steps of:

encoding an uncoded video to generate extended base layer reference frames, each of the extended base layer reference frames including a base layer reference frame and at least a portion of an associated enhancement layer reference frame; and

generating frame residuals from the uncoded video and the extended base layer reference frames.

De Bonet fails to expressly or inherently describe the generation of extended base layer reference frames which each includes a base layer reference frame and at least a portion of an associated enhancement layer reference frame. The Examiner contends that the high resolution motion vectors which have been upsampled from motion vectors extracted from the base layer are at least portions of associated enhancement layer reference frames. It is respectfully submitted that the high resolution motion vectors relied upon by the Examiner are not portions of

enhancement layer reference frames. The motion vectors described by De Bonet are values that represent the distance and direction between the locations of macroblocks and their matches in reference frames. Thus, De Bonet fails to describe applicant's claimed step of generating extended base layer reference frames.

Since De Bonet does not in any way describe the generation of extended base layer reference frames, De Bonet also fails to describe applicant's step of generating frame residuals from the extended base layer reference frames. Hence, claim 1 is not anticipated by De Bonet.

Claims 2, 4-14, 16-26 and 28-36 are not anticipated by De Bonet for at least the same reasons as set forth with respect to claim 1.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

4. Claims 3, 15 and 27 stand rejected under 35 USC 103(a) as being unpatentable over De Bonet in view of U.S. Patent 6,614,936 to Wu *et al.* (Wu).

Claims 3, 15, and 27 each require an extended base layer reference frame which includes a base layer reference frame and at least a portion of an associated enhancement layer reference frame and frame residuals generated or predicted from the extended base layer reference frame. As discussed above, De Bonet fails to describe these features. The addition of Wu fails to cure the deficiencies of De Bonet, as Wu also fails to describe these features. For at least this reason, De Bonet in view of Wu fail to make unpatentable the subject matter of claims 3, 15, and 27.

Accordingly, withdrawal of this rejection is respectfully requested.

5. Favorable reconsideration of this application is respectfully requested as it is believed that all outstanding issues have been addressed herein and, further, that claims 1-36 are in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or matters whose resolution may be advanced by a telephone call, the examiner is cordially invited to contact applicants' undersigned attorney at his number listed below.

6. The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17, which are associated with this communication, or credit any overpayment to Deposit Account No. 50-2061.

Respectfully submitted,



PAUL A. SCHWARZ

Duane Morris LLP
P.O. Box 5203
Princeton, New Jersey 08543-5203
(609) 631-2446 - telephone
(609) 631-2401 - facsimile
PTN115635.1